

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

TEJ & TJJ LLC,

Petitioner-Appellant,

v.

Black Hawk County Board of Review,

Respondent-Appellee.

ORDER

Docket No. 11-07-1595

Parcel No. 8913-26-331-013

On July 3, 2012, the above captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board under Iowa Code sections 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellant TEJ & TJJ LLC was represented by owner/member Tyler E. Junker. It requested a written consideration. Assistant County Attorney David J. Mason represented the Black Hawk County Board of Review. The Appeal Board having reviewed the entire record and being fully advised, finds:

Findings of Fact

TEJ & TJJ LLC (TEJ) owner of a residentially classified property located at 1122 W 5th Street, Waterloo, Iowa, appeals from the Black Hawk County Board of Review regarding its 2011 property assessment. The January 1, 2011, assessment is \$48,320, allocated as \$6750 in land value and \$41,570 in improvement value.

The subject property is a two-story frame, single-family residence built in 1906. The improvements include 1312 square feet of above-grade finish and a full, unfinished basement. Additionally, there is a 64 square-foot enclosed porch and an 84 square-foot patio. The improvements are normal condition with 35% physical depreciation, 15% functional obsolescence, and 10% economic obsolescence. The site is 0.096 acres.

TEJ protested its assessment to the Black Hawk County Board of Review. On the protest it contended there has been a change downward in value since the last assessment under section 441.37(1) and 441.35. Its petition stated: “sale price by government of \$17,760 on 8-24-2010.” In a re-assessment year, a challenge based on downward change in value is akin to a market value claim. *See Dedham Co-op. Ass'n v. Carroll County Bd. of Review*, 2006 WL 1750300 (Iowa Ct. App. 2006)(unpublished). Accordingly, we consider TEJ’s claim as one of over-assessment under Iowa Code section 441.37(1)(b).

The Board of Review denied the protest.

TEJ then appealed to this Board reasserting its claim of over assessment. It asserts the correct value is \$38,750, allocated as \$6750 in land value and \$32,000 in improvement value.

Tyler Junker submitted a written statement and referenced several properties he considered comparable to the subject. Junkers written appeal states TEJ purchased the subject property in August 2010 for \$17,760. We note the purchase was from the Secretary of Housing and Urban Development and would not be considered a normal transaction. He states that in addition to the purchase price, he did a “complete rehab of the property which came to a total of \$12,233.85 and another of a furnace and water heater of \$2452. His total investment including the updates and purchase price is roughly \$32,500, and he contends the correct assessment is \$38,750. He provided an invoice documenting rehab costs and a copy of the check for the furnace and water heater. However, he does not provide any additional support for his final opinion of value.

Junker also submitted two location maps from two different appraisals. Neither appraisal was for the subject property. The first location map is for an appraisal of a property located at 116 W Washington Street. It includes four properties with sales prices ranging from \$17,760 to \$29,500. The second location map is for a property located at 1124 Washington Street. It also has four properties with sales prices ranging from \$25,000 to \$35,000. There is no information in the record about any of

the properties and we are unable to determine if they are similar in style, design (single-family or multi-family), size or condition. Because there is no comparison of these properties to the subject property we give this information no consideration.

The Board of Review did not submit any evidence.

Based upon the foregoing, we find there is insufficient evidence to support a claim of over-assessment.

Conclusions of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). TEJ & TJJ LLC did not provide sufficient evidence of the correct and actual market value of the subject property as of January 1, 2011. Therefore, a preponderance of the evidence does not support the claim that the property is assessed for more than authorized by law.

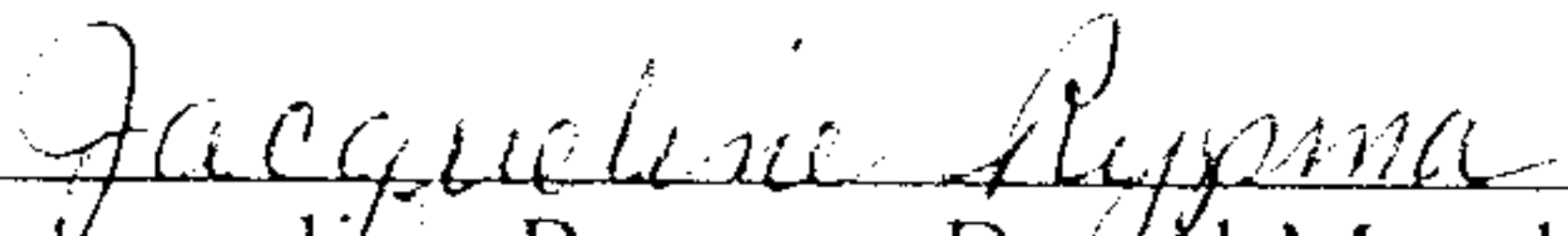
We affirm the assessment of TEJ & TJJ LLC's property as determined by the Black Hawk County Board of Review.

THE APPEAL BOARD ORDERS the assessment of TEJ & TJJ LLC's property located at 1122 W 5th Street, Waterloo, Iowa, of \$48,320, as of January 1, 2011, set by Black Hawk County Board of Review, is affirmed.

Dated this 30 day of August, 2012.


Karen Oberman, Presiding Officer


Richard Stradley, Board Chair


Jacqueline Rypma, Board Member

Cc:

TEJ & TJJ, LLC
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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>8-20</u> , 2012	
By:	<input type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input checked="" type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	